

**\*E-FILED 7/6/07\***

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

YU YANG,

Plaintiff,

v.

MICHAEL CHERTOFF, et al.,

Defendants.

Case Number C 06-07595 RS

**ORDER DENYING MOTION TO  
DISMISS**

On March 22, 2007, the Court issued an order deeming defendant's response to the order to show cause issued herein to be a motion to dismiss for lack of jurisdiction. The Court set a briefing schedule and a hearing date, but for a period of time thereafter plaintiff could not be contacted. The motion to dismiss was subsequently reset to be heard on July 11, 2007, and plaintiff has filed written opposition. The Court finds this matter suitable for disposition without oral argument pursuant to Civil Local Rule 7-1 (b).

Defendants' jurisdictional arguments appear to have been rejected by every court in this district that has considered them, and this Court sees no basis to deviate from the considered analysis in those decisions. See *Qui v. Chertoff*, 2007 WL 1831130, \*2 n.3 (N.D. Cal. June 25,

1 2007) (collecting cases from not less than ten judges in this district finding jurisdiction exists on  
2 facts materially indistinguishable from the facts here). Accordingly, the motion to dismiss is  
3 DENIED.

4 It appears, however, that the issues raised in the complaint likely are amenable to  
5 resolution on summary judgment. The parties are directed, therefore, to file cross-motions for  
6 summary judgment as promptly as practicable.

7  
8  
9 IT IS SO ORDERED.

10 Dated: July 6, 2007

  
RICHARD SEEBORG  
United States Magistrate Judge

1 **THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY**  
2 **PROVIDED TO:**

3 Ila Casy Deiss    ila.deiss@usdoj.gov, tiffani.chiu@usdoj.gov  
4

5 **AND A COPY OF THIS ORDER WAS MAILED TO:**

6 Yu Yang  
7 1901 Halford Avenue  
8 Apt #3  
9 Santa Clara, CA 95051

10 Dated: July 6, 2007

11 /s/ BAK  
12 Chambers of Magistrate Judge Richard Seeborg  
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